

A.K. asks the Utah Labor Commission to review Administrative Law Judge La Jeunesse's denial of Mr. K.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated §63-46b-12 and §34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

On November 15, 2000, Mr. K. was employed by SOS Staffing to shovel snow. He slipped, fell backwards and hit his neck on a curb. SOS Staffing and its insurance carrier, Ace Insurance (referred to jointly as "SOS") accepted workers' compensation liability for Mr. K.'s injuries and paid some benefits. On January 27, 2005, Mr. K. filed an application with the Commission to compel SOS to pay additional benefits.

That parties waived their right to an evidentiary hearing on Mr. K.'s claim. Instead, they submitted a stipulation of fact and agreed that the medical aspects of the claim should be submitted to an impartial medical panel. Judge La Jeunesse appointed Dr. Wilcox, an internist, to serve as panel chair.

Dr. Wilcox evaluated Mr. K.'s claim on his own, without the assistance of any other medical experts. On September 27, 2005, Dr. Wilcox submitted an extremely brief report answering the specific questions asked by Judge La Jeunesse, but with no explanation of the basis for his answers. In summary, Dr. Wilcox concluded: 1) Mr. K.'s current problems are not "directly" related to his work accident at SOS; 2) while further medical treatment may be needed, such treatment is not necessitated by the work accident; and 3) Mr. K. reached medical stability about two weeks after the accident.

Relying on Dr. Wilcox's opinion, Judge La Jeunesse denied Mr. K.'s request for additional workers' compensation benefits. Mr. K. now asks the Commission to reopen this matter so that further clarification and explanation can be obtained from the medical panel.

DISCUSSION

Mr. K.'s right to any additional workers' compensation benefits depends on the nature and effect of the injuries he suffered while working at SOS on November 15, 2000. These are medical questions that must be resolved by reference to medical science and opinion. Section § 34A-2-601 of the Utah Workers' Compensation Act allows the Commission to appoint a medical panel to evaluate such matters. This procedure was used in this case, resulting in Dr. Wilcox's summary opinion.

As a general rule, the Commission finds medical panel reports very helpful in resolving workers' compensation disputes, for the following reasons:

- The collegial nature of the panel allows each panelist to draw upon the thoughts and experience of the other panelists;
- The panelists themselves are not affiliated with any of the parties and are, therefore, impartial;
- The panelists have individual expertise in the specific medical disciplines at issue;
- The panels have the benefit of applicants' complete medical histories and records, as well as the diagnosis and opinions of treating physicians and other medical experts;
- The medical panelists have an opportunity to exam the applicants; and
- The panels provide well-reasoned reports that explain the basis for the panels' conclusions.

To the extent the foregoing factors are missing from a medical panel's evaluation, the resulting opinion is of diminished value. In this case, the medical panel consisted of a single physician, not necessarily expert in the fields of orthopedic and neurological medicine that are implicated by Mr. K.'s injuries. The panel's report is limited to ultimate conclusions, without the foundation and explanation that would permit the Commission to assess the report's reliability. In light of these concerns, the Commission concludes the medical panel has not yet completed the function intended by § 34A-2-601 of the Act. The Commission will, therefore, remand this matter to Judge La Jeunesse. On remand, Judge La Jeunesse will again refer Mr. K.'s claim to the medical panel, but with such instruction as is necessary to address the deficiencies noted above.

ORDER

The Commission grants Mr. K.'s motion for review and sets aside Judge La Jeunesse's decision. The Commission remands this matter to Judge La Jeunesse for further proceedings consistent with this decision.

Dated this 22nd day of February, 2006.

R. Lee Ellertson
Utah Labor Commissioner